

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA

v.

DONTARIAN NOLAN

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No. 3:02-CR-136

ORDER

This criminal case is before the court on the defendant's *pro se* motion for a reconsideration of this court's previous Order denying his motion for a reduction in his sentence based on the new sentencing guidelines for computing criminal history [doc. 24]. The defendant contends that the new guidelines for computing criminal history are "clarifying" amendments and, as such, he is entitled to have his criminal history points recalculated.

As the court stated in its previous Order, the guidelines amendment that the defendant seeks to apply to his situation, 709, is not listed in U.S.S.G. § 1B1.10(c) and is not to be given retroactive affect. Under 18 U.S.C. § 3582(c), a defendant may only seek a reduction in his sentence that is consistent with the applicable policy statements of the sentencing guidelines. The guidelines do not provide that amendment 709 is to be given retroactive effect, and the defendant may not obtain a review of his criminal history points in a § 3582(c) motion.

Thus, whether the amendment is clarifying or not, this court has no authority to reconsider the defendant's sentence under § 3582(c). Therefore, it is hereby **ORDERED** that the defendant's motion for reconsideration is **DENIED**.

ENTER:

s/ Leon Jordan
United States District Judge